

Amendment No. 1 to HB1062

Curcio
Signature of Sponsor

AMEND Senate Bill No. 1349

House Bill No. 1062*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-13-203, is amended by deleting subsection (a) and substituting:

(a) As used in this section, "intellectual disability" means:

- (1) Significantly subaverage general intellectual functioning;
- (2) Deficits in adaptive behavior; and
- (3) The intellectual disability must have manifested during the developmental period, or by eighteen (18) years of age.

SECTION 2. Tennessee Code Annotated, Section 39-13-203, is amended by adding the following as a new subsection:

(g)

(1) A defendant who has been sentenced to the death penalty prior to the effective date of this act and whose conviction is final on direct review may petition the trial court for a determination of whether the defendant is intellectually disabled. The motion must set forth a colorable claim that the defendant is ineligible for the death penalty due to intellectual disability. Either party may appeal the trial court's decision in accordance with Rule 3 of the Tennessee Rules of Appellate Procedure.

(2) A defendant shall not file a motion under subdivision (g)(1) if the issue of whether the defendant has an intellectual disability has been previously adjudicated on the merits.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.